

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

CLAY CHASTAIN,

Plaintiff,

v.

CYPRESS MEDIA, LLC, d/b/a
The Kansas City Star, and
THE McCLATCHY COMPANY,

Defendants.

No. 4:19-CV-00315-DGK

**ORDER GRANTING DEFENDANT'S SECOND MOTION TO DISMISS WITH
PREJUDICE**

This case arises from Plaintiff Clay Chastain's allegations that Defendant The Kansas City Star ("the Star"), a local newspaper, defamed him in a March 2019 mayoral candidate profile. Now before the Court is the Star's second motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim (Doc. 19). Because Chastain's second amended complaint asserts the same facts this Court previously held were insufficient to state a claim of defamation, the motion is GRANTED.

Chastain's original complaint, as first amended, alleged that in a March 2019 article profiling three mayoral candidates the Star made three defamatory statements: (1) that he was placed on Kansas City's watchlist for threatening the mayor; (2) that he suffered from depression and struggled financially; and (3) that he filed many lawsuits against the City of Kansas City.¹ Under Missouri law, a plaintiff alleging defamation must plead: 1) publication, 2) of a defamatory statement, 3) that identifies the plaintiff, 4) that is false, 5) that is published with the requisite

¹ The complaint, as first amended, only discussed two defamatory statements. Plaintiff added the third in his response to the Star's motion to dismiss. The Court considered all three statements to ensure substantial justice was done.

degree of fault, and 6) that damages the plaintiff's reputation. *Overcast v. Billings Mut. Ins. Co.*, 11 S.W.3d 62, 70 (Mo. 2000). The Court held Chastain had failed to state a defamation claim because he did not state facts which pled: (1) that the first statement was either false or published with the requisite degree of malice; (2) that the second statement was published with actual malice;² or (3) that the third statement was false.³ The Court dismissed Chastain's complaint without prejudice (Doc. 16).

Upon dismissal, Chastain filed his second amended complaint, alleging once again that the same three published statements in the March 2019 article are defamatory. In support of his claims, he also asserts the same facts that this Court previously held were insufficient to state a claim of defamation.

Therefore, for the reasons discussed by the Court in its prior order dismissing Plaintiff's claims (Doc. 16), the Star's second motion to dismiss is GRANTED. Because Plaintiff has been given multiple opportunities to present facts supporting his claims but has failed to do so, Plaintiff's claims are DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.

Date: October 21, 2019

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT

² Chastain also admitted that he "briefly" struggled financially, so he failed to prove falsity in regard to the second half of the second statement.

³ In reviewing the motion to dismiss, the Court considered the Complaint (Doc. 1-1); three amendments to it made by the Amended Petition (Doc. 1-2); a March 25, 2019, article from the Star (a clearer copy of which is filed in the record as Doc. 3-2); and a March 13, 2018, article from the Star which was hyperlinked to the 2019 article (Doc. 3-3).